

National Transportation Safety Board

§ 821.1

Subpart J—Ex Parte Communications

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AUTHORITY: Title VI, Federal Aviation Act of 1958, as amended (49 U.S.C. 40101 *et seq.*); Independent Safety Board Act of 1974, Pub.L. 93-633, 88 Stat. 2166 (49 U.S.C. 1101 *et seq.*), and FAA Civil Penalty Administrative Assessment Act of 1992, Pub.L. 102-345 (49 U.S.C. 46301), unless otherwise noted.

SOURCE: 40 FR 30243, July 17, 1975, unless otherwise noted.

Subpart A—General Provisions

§ 821.1 Definitions.

As used in this part:

Act means the Federal Aviation Act of 1958, as amended (49 U.S.C. 1301 *et seq.*);

Administrator means the Administrator of the Federal Aviation Administration (FAA);

Airman certificate means any certificate issued by the FAA to an airman and shall include medical certificates required for an airman;

Appeal from an initial decision means a request to the Board to review a law judge's decision;

Appeal to the Board means a request to the Board for the review by a law judge of an order of the Administrator;

Board means the National Transportation Safety Board;

Certificate means any certificate issued by the Administrator under Title VI of the Act;

Chief Law Judge means the administrative law judge in charge of the Office of Administrative Law Judges;

Complaint means an order of the Administrator from which an appeal to the Board has been taken pursuant to sections 501(e)(2), 609, 611(c), or 901 of the Act.

Emergency order means an order of the Administrator issued pursuant to section 609 of the Act, which recites that an emergency exists and that safety in air commerce or air transpor-

tation and the public interest require the immediate effectiveness of such order;

Flight engineer means a person who holds a flight engineer certificate issued under part 63 of title 14 of the Code of Federal Regulations.

Initial decision means the law judge's decision on the issue remaining for disposition at the close of a hearing before him and/or an order that has the effect of terminating the proceeding, such as one granting a motion to dismiss in lieu of an answer, as provided in § 821.17, and one granting a motion for summary judgment. *Initial decision* does not include cases where the record is certified to the Board, with or without a recommended decision, orders partly granting a motion to dismiss and requiring an answer to any remaining allegations, or rulings by the law judge on interlocutory matters appealed to the Board under § 821.16;

Law judge means the administrative law judge assigned to hear and preside over the respective proceedings;

Mechanic means a person who holds a mechanic certificate issued under part 65 of title 14 of the Code of Federal Regulations.

Order means the document (sometimes also called a complaint) in which the Administrator seeks to impose a civil penalty or amend, modify, suspend or revoke a certificate.

Petition for review means a petition filed pursuant to section 602(b) of the Act for review of the Administrator's denial of an application for issuance or renewal of an airman certificate;

Petitioner means a person who has filed a petition for review;

Pilot means a person who holds a pilot certificate issued under part 61 of title 14 of the Code of Federal Regulations.

Repairman means a person who holds a repairman certificate issued under part 65 of Title 14 of the Code of Federal Regulations.

Respondent means the holder of a certificate who has appealed to the Board from an order of the Administrator imposing a civil penalty or amending, modifying, suspending, or revoking a certificate.

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Terms defined in the Act are used as so defined.

[40 FR 30243, July 17, 1975, as amended at 58 FR 11380, Feb. 25, 1993; 59 FR 59046, Nov. 15, 1994]

§ 821.2 Applicability and description of part.

The provisions of this part govern all air safety proceedings, including proceedings involving airman medical certification, before a law judge on petition for review of the denial of any airman certificate or on appeal from any order of the Administrator amending, modifying, suspending or revoking any certificate. The provisions of this part also govern all proceedings on appeal from an order of the Administrator imposing a civil penalty on a flight engineer, mechanic, pilot, or repairman, or a person acting in that capacity, where the underlying violation occurred on or after August 26, 1992, and all proceedings on appeal to the Board from any order or decision of a law judge.

[59 FR 59054, Nov. 15, 1994]

§ 821.3 Description of docket numbering system.

In addition to sequential numbering of cases as received, each case formally handled by the Board receives a letter prefix. These letter prefixes reflect the case type: "SE" for the safety enforcement (suspension/revocation) docket; "SM" (safety medical) for an enforcement case involving a medical application; "SR" for a case involving safety registration issues under 49 U.S.C. 44101 *et seq.*; "CD" for certificate denial (see 49 U.S.C. 44703); a new "CP" for cases in which the Administrator seeks a civil penalty; and "EAJA" for applications seeking Equal Access to Justice Act awards.

[59 FR 59046, Nov. 15, 1994]

Subpart B—General Rules Applicable to Petitions for Review, Appeals to the Board, and Appeals From Initial Decisions

§ 821.6 Appearances and rights of witnesses.

(a) Any party to a proceeding may appear and be heard in person or by attorney or other representative des-

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ignated by him. No register of persons who may practice before the Board is maintained, and no application for admission to practice is required. Upon hearing, and for good cause shown, the Board may suspend or bar any person from practicing before it.

(b) Any person appearing in person in any proceeding governed by this part, may be accompanied, represented, and advised by counsel and may be examined by his own counsel or representative.

(c) Any person who submits data or evidence in a proceeding governed by this part, may by timely request procure a copy of any document submitted by him, or a copy of any transcript made of his testimony on payment of reasonable costs. Original documents or data or evidence may be retained by a party upon permission of the law judge or the Board, upon substitution of a copy therefor.

(d) Any party to a proceeding who is represented by an attorney or party representative shall notify the Board of the name and address of that attorney or representative. In the event of a change in attorney or representative of record, a party shall notify the Board, in the manner provided in § 821.7(a), and the other parties to the proceeding, prior to the attorney or representative participating in any way, including the filing of documents, in any proceeding.

[40 FR 30243, July 17, 1975, as amended at 49 FR 28249, July 11, 1984; 59 FR 59046, Nov. 15, 1994]

§ 821.7 Filing of documents with the Board.

(a) *Filing address, date and method of filing.* Generally, documents are to be filed with the Office of Administrative Law Judges, National Transportation Safety Board, 490 L'Enfant Plaza East, S.W., Washington, DC 20594–2000, and addressed to the assigned law judge, if any. Subsequent to the filing of a notice of appeal from a law judge's initial decision or order terminating the proceeding (written or oral), or a decision permitting an interlocutory appeal, all documents should be directed to the Office of General Counsel, also at the above address. Filing of any document shall be by personal delivery, by U.S. Postal Service first class mail, or by